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IN THE

DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND

IN EQUITY.

No. 2240

CHESAPEAKE AND POTOMAC TELEPHONE COMPANY OF BALTIMORE CITY, A BODY CORPORATE,

vs.

HAROLD E. WEST ET AL., CONSTITUTING THE PUBLIC SERVICE COMMISSION OF MARYLAND.

Revised Jurisdictional Statement.

To the Honorable the Judges of the United States District Court for the District of Maryland:

Harold E. West *et al.*, constituting the Public Service Commission of Maryland, appellants in the above cause, in accordance with United States Supreme Court Rule 12 (1), herewith respectfully show the jurisdictional basis upon which this appeal is brought to the United States Supreme Court:

1. This suit was initiated on December 13, 1933, by a bill for temporary and permanent injunction against the

appellants, as the Public Service Commission of Maryland, seeking to restrain them from putting into effect an order passed by them on November 28, 1933, reducing the rates of the Chesapeake and Potomac Telephone Company of Baltimore City, the appellee. Upon agreement of the parties the preliminary and final injunction cases were considered as one case before a Statutory District Court for the District of Maryland, consisting of two district judges and one circuit judge. The final decree appealed from was signed on June 8, 1934, and held that the said order of the appellants, as such Public Service Commission, was invalid and constituted confiscation of the property of the appellee under the Fourteenth Amendment to the United States Constitution. Application for allowance of an appeal was made on July 13, 1934, and an order allowing the appeal and the citation were signed the same date. The appellants contend that the Statutory District Court erred in finding and ordering that the said order of the appellants was confiscatory, upon the evidence produced before them.

2. Such appeal is specifically provided for in 28 U. S. C. A., Section 380 (Judicial Code, Section 266), as amended. The appeal is from a final decree granting a permanent injunction restraining the appellants in the enforcement or execution of an order made by them, as the Public Service Commission of Maryland, which is, in the language of the said section—"an administrative board or commission acting under and pursuant to the statutes," of the State of Maryland. The said section further provides for a direct appeal to the Supreme Court "from a final decree granting or denying a permanent injunction in such suit." The language of the section has been specifically construed to include suits involving an order made by such a commission, even though such suit does not involve an attack

on the statute under which the commission acted. See *Oklahoma Natural Gas Co.* v. *Russell*, 261 U. S. 290, at 292; *Prendergast* v. *New York Telephone Co.*, 262 U. S. 43.

RICHARD F. CLEVELAND,
Solicitor for Harold E. West et al.,
Constituting the Public Service
Commission of Maryland, Appellants.

(5860-C)